

**RECEIVED
CENTRAL FAX CENTER**

DEC 20 2005

920476-904953

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of : Howard J. Smith
Serial No. : 09/945,171
Filed : August 30, 2001
For : Improved Amplitude and Phase Comparator
for Microwave Power Amplifier
Examiner : Erin M. File
Art Unit : 2634
Customer number : 23644

I hereby certify that this correspondence is being transmitted to the
above - identified examiner at the United States Patent and
Trademark Office (571) 273-8300 on December 20, 2005.

Name of person signing Minnie WilsonSignature **RESPONSE TO OFFICE ACTION MAILED SEPTEMBER 20, 2005,
SUPPLEMENTED BY FURTHER ACTION MAILED SEPTEMBER 27, 2005**

Honorable Director of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action of September 20, 2005, which was supplemented by a further action dated September 27, 2005, the following response is being submitted. It is unclear from the September 27, 2005 supplemental action whether the response date was changed to December 27, 2005, and in order to be unquestionably timely, this response is being filed on December 20, 2005 although, as explained below, the response will also be appropriately supplemented.

BEST AVAILABLE COPY

In the Office Action, the Examiner has rejected claims 1, 2, 4-9 and 11-14 under 35 U.S.C. §103 as being unpatentable over Wessel U.S. Patent No. 6,275,685 in view of Olive U.S. Patent No. 2,900,459 (which the Examiner identified in the September 27, 2005 supplement). Claim 3 was further rejected in view of the Sahlman published application, and claim 10 was indicated to contain allowable subject matter. Reconsideration is requested, because, as will be seen in a moment, Wessel can be overcome as a reference by the Applicant because of common ownership.


As the Examiner will note, Wessel is owned by Nortel Networks Limited, as is the present the application (the Assignment is recorded at reel 012147, frame 0602).

Wessel is prior art under 35 U.S.C. §102(e) and 35 U.S.C. §102(a). Pursuant to 35 U.S.C. §103(c)(1), the common ownership by Nortel Networks Limited overcomes Wessel under 35 U.S.C. §102(e). Also, the disclosure of the inventors for the present application was submitted to their employer, Nortel Networks Limited, on April 10, 2001. Appended hereto is a copy of that disclosure, and the Examiner will see that it is very detailed and serves to evidence reduction to practice at least as early as April 10, 2001. Therefore, this response is going to be supplemented by a Declaration under 37 C.F.R. §131, swearing back of the August 14, 2001 publication date of Wessel. Wessel will therefore be overcome as a reference, and the Examiner's rejections, will, consequently, be moot.

Therefore, once this response has been supplemented with the executed Declaration under 37 C.F.R. §1.131, it is submitted that the application will be in condition for allowance, and the Examiner's further and favorable reconsideration is urged.

December 20, 2005

Respectfully submitted,



William M. Lee, Jr.
Registration No. 26,935
Barnes & Thornburg LLP
P.O. Box 2786
Chicago, Illinois 60690-2786
(312) 214-4800
(312) 759-5646 (fax)

CHDS01 WLES 310072v1